

not pursue its formal appeal. If the decision concerns major construction projects and the Office of Facilities Management disagrees with the decision made by the Deputy Assistant Secretary for Acquisition and Materiel Management, the matter will be referred to the Senior Procurement Executive for a final VA determination.

[52 FR 46083, Dec. 4, 1987, as amended at 54 FR 40064, Sept. 29, 1989; 63 FR 69220, Dec. 16, 1998]

Subpart 819.8—Contracting With the Small Business Administration (The 8(a) Program)

819.800 General.

(a) No contract will be entered into with SBA under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) unless a certification is made by the Administrator of that agency, or designee, that SBA is competent to perform the contract.

(b) When it is determined that the requirements of the Department of Veterans Affairs are appropriate for inclusion in this program, the contracting officer will make this fact known to proper officials of the SBA regional office servicing his/her area. However, when projects funded from minor construction appropriation (between \$400,000 and \$2 million) are proposed for 8(a) acquisition, the Director, Office of Small and Disadvantaged Business Utilization (OSDBU) (00SB), shall be contracted by telephone or notified in writing in order to afford the OSDBU an opportunity to identify possible 8(a) sources prior to apprising SBA officials. If the certification required by paragraph (a) of this section is received, the Department of Veterans Affairs contracting officer will secure from SBA the name(s) and location(s) of their subcontractor(s) and the unit price(s) to be paid. Should these prices be within a range acceptable to the Department of Veterans Affairs, the contracting officer will notify SBA of acceptance.

(c) The contract will be made between the Department of Veterans Affairs and SBA and will be administered by the Department of Veterans Affairs.

(d) In addition to meeting the requirements of 801.602-70, contracting officers will secure cost and pricing data prescribed in FAR 15.403-4 and 815.804-2 when negotiating contracts under the SBA 8(a) program. Contracting officers will request an audit in accordance with 815.805-5 on proposals in excess of \$500,000 before negotiating any contract or modification.

[49 FR 12608, Mar. 29, 1984, as amended at 50 FR 792, Jan. 7, 1985; 54 FR 40064, Sept. 29, 1989. Redesignated and amended at 63 FR 69220, Dec. 16, 1998]

819.803 Selecting acquisitions for the 8(a) program.

The contracting officer will specify in writing the time limit for SBA to propose an acceptable 8(a) subcontractor. The time limit should be between 30 and 45 days, but may be extended by the contracting officer.

[50 FR 793, Jan. 7, 1985]

819.804 Evaluation, offering, and acceptance.

(a) The contracting officer will notify SBA in writing of the time limit for contract negotiations in accordance with FAR 19.804-2. The time limit, as a minimum, should be 45 days, but may be extended by the contracting officer.

[50 FR 793, Jan. 7, 1985, as amended at 63 FR 69220, Dec. 16, 1998]

819.806 Pricing the 8(a) contract.

In order to expedite the 8(a) process, SBA should be informed as soon as a disparity between the 8(a) offered price and the estimated fair market price is determined. The SBA and the VA contracting office should collaborate to determine if the disparity is:

(a) A result of deficiencies in developing the fair market price, thereby requiring revision to the estimate;

(b) A result of overpricing by the 8(a) company, thereby requiring further efforts to negotiate a decrease in the offered price; or

(c) A legitimate differential which should be funded through the SBA business development expense.

[52 FR 37317, Oct. 6, 1987. Redesignated at 63 FR 69220, Dec. 16, 1998]